

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

BRUCE SCOTT GARRETT,	§	
Petitioner,	§	
VS.	§	CIVIL ACTION NO.4:06-CV-162-Y
	§	
NATHANIEL QUARTERMAN,	§	
Director, T.D.C.J.	§	
Correctional Institutions Div.,	§	
Respondent.	§	

ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS

In this action brought by petitioner Bruce Scott Garrett under 28 U.S.C. § 2254, the Court has made an independent review of the following matters in the above-styled and numbered cause:

1. The pleadings and record;
2. The proposed findings, conclusions, and recommendation of the United States magistrate judge filed on June 30, 2006; and
3. The petitioner's written objections to the proposed findings, conclusions, and recommendation of the United States magistrate judge filed on August 25, 2006.

The Court, after de novo review, concludes that Petitioner's objections must be overruled, and that the petition for writ of habeas corpus should be dismissed for the reasons stated in the magistrate judge's findings and conclusions, and as set forth here.


Petitioner Garrett does not dispute the magistrate judge's recommendation that this action is a successive petition filed without the authorization of the United States Court of Appeals for the Fifth Circuit. He argues, however, that this Court should hold the petition in abeyance pending any efforts by him to seek permission from the court of appeals. But, since he did not obtain the requisite authorization before filing suit, this Court is

without jurisdiction to consider the instant case.<sup>1</sup> As jurisdiction is lacking, the Court is not in a position to hold the case in abeyance, and the objection on such basis is overruled.

Therefore, the findings, conclusions, and recommendation of the magistrate judge are ADOPTED.

Petitioner Bruce Scott Garrett's petition for writ of habeas corpus is DISMISSED WITHOUT PREJUDICE to his right to file a motion in the United States Court of Appeals for the Fifth Circuit for leave to file a successive petition.

SIGNED August 28, 2006.

  
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TERRY R. MEANS  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup>See *United States v. Key*, 205 F.3d 773, 774 (5th Cir.2000) ("Accordingly, § 2244(b)(3)(A) acts as a jurisdictional bar to the district court's asserting jurisdiction over any successive habeas petition until [the circuit court] has granted the petitioner permission to file one.").